

AMENDED IN ASSEMBLY AUGUST 12, 2004

AMENDED IN ASSEMBLY JUNE 24, 2004

AMENDED IN SENATE MAY 6, 2004

AMENDED IN SENATE MAY 3, 2004

AMENDED IN SENATE APRIL 22, 2004

SENATE BILL

No. 1848

Introduced by Senator Ashburn
(Principal coauthor: Senator Romero)
(Coauthor: Assembly Member Correa)

February 20, 2004

An act to add and repeal Section 14601.9 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1848, as amended, Ashburn. Vehicles: driver's license violations: referral program.

Existing law imposes specified sentencing and fine sanctions upon persons found guilty of violating provisions prohibiting the driving of vehicles without a license, as specified.

This bill would authorize, until January 1, 2008, the district attorneys of certain counties, and the city attorneys of certain cities, with the approval of the board of supervisors or city council, to establish a pilot program for persons who plead guilty or no contest or are convicted of violations of specified provisions prohibiting driving without a valid driver's license. Under the program, and subject to the approval of the

court, the district attorney or city attorney would be authorized to enter into a written agreement with a person in a case involving a violation of the specified provisions in which the person agrees to the following, in lieu of the imposition of a county jail sentence: (1) a home detention program utilizing an electronic monitoring program for not less than the minimum jail sentence, and not more than the maximum jail sentence, provided for a violation of the specified provisions, and (2) a class or classes relating to driving without a valid driver's license, as specified. Persons participating in the pilot program would be required to complete a home detention program utilizing an electronic monitoring program and equipment that meets certain standards. The electronic monitoring program would be provided under the auspices of the district attorney or city attorney, or his or her designee. The bill would permit the recovery of fees for the program from participants, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14601.9 is added to the Vehicle Code,
2 to read:
3 14601.9. (a) (1) The district attorney of the County of
4 Alameda, Fresno, Kern, Los Angeles, Merced, *Orange*, Placer,
5 Riverside, Sacramento, ~~and~~ San Diego, San Joaquin, San Luis
6 Obispo, San Mateo, Santa Barbara, or Santa Cruz, with the
7 approval of the board of supervisors, may establish a pilot program
8 for persons who plead guilty or no contest or who are found guilty
9 of a violation of Section 14601, 14601.1, or 14601.3. The district
10 attorney may conduct the program or contract with a private entity
11 to conduct the program.
12 (2) A city located within the boundaries of a county listed in
13 paragraph (1), ~~and a city located within Orange County,~~ may
14 establish the pilot program in the city, if the city has a city attorney,
15 *the county district attorney has consented, pursuant to Section*
16 *41803.5 of the Government Code, to allow the city attorney to*
17 *prosecute misdemeanors within the city,* and the city council
18 approves the establishment of the program. The city attorney may

1 conduct the program or contract with a private entity to conduct
2 the program.

3 (b) Subject to the approval of the court, a person who pleads
4 guilty or no contest to a violation of, or is convicted of a violation
5 of, Section 14601, 14601.1, or 14601.3 may enter into a written
6 agreement with the district attorney of a county described in
7 paragraph (1) of, or the city attorney of a city described in
8 paragraph (2) of, subdivision (a). The prosecuting attorney for the
9 case shall attest to the person's suitability and eligibility for
10 enrollment in the program by signing the plea and sentencing
11 agreement. If the court determines that the particular case is
12 appropriate for referral to the program described in this section, the
13 judge may make an order directing the person to comply with the
14 terms of the agreement. Participation in the program shall be in
15 lieu of imposing a jail sentence under Section 14601, 14601.1, or
16 14601.3. The agreement shall require the person to complete all of
17 the following elements within 60 days or within the term of the
18 maximum jail sentence allowed under Section 14601, 14601.1, or
19 14601.3, whichever period is longer:

20 (1) A home detention program utilizing an electronic
21 monitoring program and equipment that meets acceptable
22 standards as described in Section 1203.016 of the Penal Code, for
23 not less than the minimum jail sentence, and not more than the
24 maximum jail sentence, provided under Section 14601, 14601.1,
25 or 14601.3, as applicable. The electronic monitoring program
26 described in this paragraph shall be provided under the auspices of
27 the district attorney or city attorney, or his or her designee. The
28 court may allow a person to attend school, work, or other specified
29 activities while on electronic monitoring.

30 (2) One or more classes conducted by the district attorney or
31 city attorney, or by a private entity under contract with the district
32 attorney or city attorney. The class or classes, at a minimum, shall
33 provide instruction on all of the following:

34 (A) The requirements imposed under Section 14601, 14601.1,
35 or 14601.3, including, but not limited to, the penalties for violating
36 those provisions.

37 (B) Available transportation alternatives for persons who do
38 not have a valid driver's license.

39 (C) The procedure for regaining the privilege to drive.

1 (c) No statement, or information procured from a statement,
2 made by the person in connection with the determination of his or
3 her eligibility for the program, and no statement, or information
4 procured from a statement, made by the person, subsequent to the
5 granting of the program or while participating in the program, and
6 no information contained in any report made with respect thereto,
7 and no statement or other information concerning the person's
8 participation in the program is admissible in any action or
9 proceeding.

10 (d) The court may impose any fine allowed under Section
11 14601, 14601.1, or 14601.3 upon a person who is ordered to
12 participate in the program.

13 (e) (1) The district attorney or city attorney may recover fees
14 for the program from participants or may provide for recovery of
15 fees from participants by a private entity operating the program
16 under contract.

17 (2) The recoverable fees described in this subdivision shall be
18 charged to the participant in accordance with a fee schedule that
19 has been approved by the board of supervisors or city council, or
20 the district attorney or city attorney, or a designee of the district
21 attorney or city attorney. The fees charged for the program shall
22 be modified or waived by the district attorney or city attorney, or
23 his or her designee at any time based on the present or changing
24 financial position of the participant. A person shall not be denied
25 participation in the program due to that person's inability to pay
26 for the program.

27 (f) (1) On or before June 30, 2006, the district attorney of a
28 county, and the city attorney of a city, that elects to participate in
29 the program shall prepare and submit to the Legislature an interim
30 report concerning the effectiveness of the program. The interim
31 report shall include an audit that is organized by year of
32 participation, identifies the number of persons that participated in
33 the program, and provides sufficient information on each
34 participant to enable a determination as to whether the participant
35 was suitable and eligible for participation in the program.

36 (2) On or before December 31, 2007, the district attorney of a
37 county, and the city attorney of a city, that elects to participate in
38 the pilot program specified in subdivision (a) shall prepare and
39 submit a report to the Legislature concerning that county's or city's
40 participation in the program.

(g) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2008, deletes or extends that date.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that certain counties and the City of Los Angeles may participate in a pilot home-detention program under the provisions of this act at the earliest possible time, it is necessary that this act take effect immediately.

CORRECTIONS

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